

## **REMARKS**

### **I. Objection to the Abstract Under MPEP § 608.01(b)**

At page 2, items 1-2 of the Office Action, the Examiner objected to the abstract for containing more than 150 words. Applicant hereby provides a replacement abstract by this amendment.

### **II. Rejection of Claim 1 Under 35 U.S.C. § 112 (second paragraph)**

At pages 2-3, items 3-5 of the Office Action, the Examiner rejects claim 1 under 35 U.S.C. § 112 (second paragraph). The Examiner stated “[i]t is not clear whether the 20% maximum refers to the amount of brine solution, or the amount of salt, relative to the weight of the meat.” Claim 1 has been amended to clarify that it is the brine solution which is at most 20% of the weight of the meat.

### **III. Rejection of Claims 1-3 Under 35 U.S.C. § 103(a)**

At pages 3-7, items 6-19 of the Office Action, the Examiner rejects claim 1-3 under 35 U.S.C. § 103(a) as obvious under U.S. Pat. No. 3,845,227 to Shults in light of U.S. Pat. No. 4,038,426 to Seiffhart and U.S. Pat. No. 4,409,704 to Jespersen. The Examiner stated:

Shults discloses the claimed invention, including cutting of lean muscle meat from carcass of beef, deboning, removing fat, into chunks, using a brine 1815 gms NaCl, 20 gms sodium nitrite, in 8,650 gms water, at 15% wt percent of the meat, after brining, place meat in film container cooking in water at 90-100°C, freezing to -25°C ±20°C, sterilize with high energy ionizing radiation at 2.0-6.0 megarads, but lack injection of the brine, and tumbling meat for up to 24 hours, under low pressure and refrigeration. Jespersen teaches injection of brine into meat, stirring the meat for lengthy cycle, processing 15 hours processing 30 hours, but lack refrigeration and vacuum. Seiffhart teaches the use of a tumbling massager for meat using vacuum and refrigeration.

However, none of the cited references teach or suggest the claimed feature of the invention of cooling the meat to a temperature of 26°C after cooking the meat but before packaging the cooked meat in other bags suitable for vacuum packaging. As 26°C is

significantly below the cooking temperature of 70°C to 85°C but still significantly above room temperature, this is a non-obvious feature of the invention which is not taught by the cited art.

In addition, the process in the claimed invention results in meat which absorbs significantly less radiation than in the process claimed by Shults. (Seiffhart and Jespersen do not disclose exposing the meat to radiation.) Shults discloses “steriliz[ation of] the beef in hermetically sealed cans . . . with high energy ionizing radiation at a dosage sufficient to destroy most, if not all, of the microorganisms therein, generally speaking at from about 2.0 to about 6.0 megarads,” corresponding to 20 kGys to 60 kGys. Shults does not teach or suggest a much lower minimum irradiation dosage of 15 kGy. By contrast, the claimed process does recite a potential minimum absorbed radiation dosage of 15 kGy.

Moreover, the claimed process recites cooking the meat at a lower temperature than Shults, and for a much shorter time than Shults. No cited reference teaches or suggests the claimed combination of temperature and time, or such combination with the other claimed steps. The Examiner’s assertion at page 6, item 16, “[o]ne of ordinary skill in the art would find that the procedure of Shults of placing the meat in film container at 90-100°C for 75-100 minutes performs substantially the same result in an[] equivalent manner as the applicant’s heating to 70-85°C and holding for a time of 15-30 minutes,” is without support.

Similarly, Applicant respectfully requests that the Examiner supply a reference for the statement at page 6, item 17 of the Office Action, that “it would also be obvious that placing a vacuum on a large container[] containing substantial quantities of water that the resultant pressure would be significantly above zero, and would be near the range of the applicant’s values,” in accordance with MPEP § 2144.03.

In addition, claim 2 recites a brine with significantly higher sodium chloride concentrations and significantly lower sodium nitrite concentrations than the process disclosed by Shults. Moreover, neither Seiffhart nor Jespersen disclose a brine solution with specific concentrations of sodium chloride and sodium nitrite. Shults discloses a brine with approximately 2700 grams of aqueous extract, 8650 grams water, 1815 grams sodium chloride, 380 grams edible phosphate, 50 grams sodium nitrate, 20 grams sodium nitrite, 25 grams sodium ascorbate or ascorbic acid, and 25 grams of sodium erythorbate, (line 73, col. 6 – line 8, col. 7, ‘227,) making a solution which is about 13.3% sodium chloride and 0.15% (or 1.5 g/kg) sodium nitrite by mass. By contrast, claim 2 recites a brine consisting of 19.5% sodium chloride and 1.2 g/kg of sodium nitrite solution, significantly different than the concentration levels specified in Shults.

In view of the amendments to the claims, Applicant respectfully submits that cited art does not teach or suggest claimed combinations of steps that reduces the time to prepare meat for transportation. Thus, Applicant respectfully request that the Examiner reconsider and withdraw the rejection of claims 1 – 3 under 35 U.S.C. § 103(a), and pass this case to allowance.

If any additional fee is required in connection with this Response, Applicant requests that such fee be charged to Deposit Account No. 502353.

Respectfully submitted,

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